



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :25.01.2021

CORAM:

THE HONOURABLE MRS.JUSTICE T.KRISHNAVALLI

CMA(MD)No.372 of 2015

and

MP(MD)No.2 of 2015

The Branch Manager,
National Insurance Company Limited,
Anguvilas Building,
North Car Street,
Nagercoil, Kanyakumari District. : Appellant/2nd Respondent

Vs.

1.K.Murugan
2.Seethalakshmi
3.Kannan @ Krishnasamy : R1 to R3/Petitioners 1 to 3
4.Rajesh : R4/1st Respondent

PRAYER: Civil Miscellaneous Appeal has been filed under Section 173 of Motor Vehicles Act against the award, dated 26.11.2012 made in MCOP No.256 of 2009 on the file of Motor Accident Claims Tribunal (Subordinate Court), Valliyoor.

For Appellant : Mr.N.Murugesan
For R1 to R3 : No appearance
For 4th Respondent : Mr.G.V.Vairam Santhosh

JUDGMENT

Challenge made in this appeal is to the award passed by the Motor Accident Claims Tribunal (Sub Court), Valliyoor, in MCOP No.256 of 2009, dated 26.11.2012.

2.The brief facts of the case are that on 16.11.2008 at about 12.45 am, when the deceased Pulithurai @ Poolithurai along with one Stalin, Sathiamoorthy, Sankar, after purchasing medicines at Kavalkinaru Junction were walking along the Kavalkinaru Junction main road. When they were walking near Rajapalam Thottam, at that time, Hero Honda motor cycle TN-72-AZ-3063 came in a rash and negligent manner and dashed against the deceased Pulithurai @ Poolithurai from behind and due to the impact, he sustained multiple injuries all over his body and subsequently, he died on 18.11.2008. The claimants, being the legal heirs of the deceased sought compensation of Rs.25,00,000/- on the ground that the rider of the motor cycle was responsible for the accident.

3.The claimants have stated that the deceased Pulithurai @ Poolithurai was working as a Technician in Wind Care India Private Limited, and he was earning Rs.3,800/- per month. A criminal case in Crime No.410 of 2008 was registered against the rider of the motor cycle by the Panagudi Police.



4.The claim was opposed by the appellant Insurance Company disputing the manner of accident and their liability to pay compensation.

5.The Tribunal, upon consideration of oral and documentary evidence, came to the conclusion that the rider of the two wheeler was responsible for the accident and awarded compensation of Rs.3,34,200/- with interest @ 7.5% p.a.

6.Heard the learned counsel appearing on either side and perused the materials available on record.

7.It is contended by the learned counsel for the appellant that the the tribunal having accepted that the rider of the two wheeler had no licence ought to have dismissed the claim petition and that the tribunal has not applied correct multiplier and the quantum of award is on the higher side, so the quantum is to be reduced.

8.In the instant case, it is not in dispute that the deceased was working as a Technician in Wind Care India Private Limited and he was earning Rs.3,800/- per month, as seen from Ex.P9 Pay Certificate. It is also not in dispute that at the time of accident, the age of the deceased was 20 years. The Tribunal, based on the evidence and reliable document, has fixed the monthly income of the deceased at Rs.3,800/-. Since the deceased is a bachelor, after deducting 50% towards personal expenses and by applying multiplier '14', the tribunal has awarded Rs.3,19,200/- towards future loss of income. Further, the Tribunal awarded Rs.10,000/- towards loss of love and affection and Rs.5,000/- for funeral expenses. In total, the Tribunal has awarded **Rs. 3,34,200/-** together with interest @ 7.5% p.a. This court is the considered opinion that the award of the tribunal, based on the evidence is reasonable and warrants no interference of this court and the same is confirmed.

9.In fine, the Civil Miscellaneous Appeal is dismissed and the award of the Tribunal is confirmed. The Appellant Insurance Company is directed to deposit the entire amount with accrued interest and costs within a period of eight weeks from the date of receipt of a copy of this order, if not deposited already. On such deposit, the claimants are permitted to withdraw the entire amount as apportioned by the tribunal without filing any formal application before the Tribunal. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar ()

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To
1. The Motor Accidents Claims Tribunal-cum-Subordinate Judge,
Valliyoore.

2. The Record Keeper, (2 copies)
VR Section,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to Mr. N. MURUGESAN, Advocate (SR-2308[F] dated 29/01/2021)

C.M.A(MD) No. 372 of 2015
25.01.2021

VB (26.02.2021) 3P 5C